

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:

Bouزيد, Inc.)	Case Number:	10-PRO-00164
t/a Marrakesh Palace Pasha Lounge)	License Number:	060695
)	Order Number:	2011-454
Application to Renew a)		
Retailer's Class CT License)		
)		
at premises)		
2147 P Street, N.W.)		
Washington, D.C. 20008)		

BEFORE: Nick Alberti, Interim Chairperson
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ALSO PRESENT: Bouزيد, Inc., t/a Marrakesh Palace Pasha Lounge, Applicant

Edward Grandis, Esq., on behalf of the Applicant

Kevin O'Conner, Commissioner, Advisory Neighborhood
Commission (ANC) 2B, Protestants

Michael Hibey, Esq., on behalf of the Group of Three or More
Individuals, Protestants

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**BOARD ORDER DENYING APPLICANT'S MOTION FOR STAY TO ALLOW
CLARIFICATION OF THE ORDER PRIOR TO IMPLEMENTATION**

Bouزيد, Inc., t/a Marrakesh Palace Pasha Lounge, (Applicant) filed an Application to renew its Retailer's Class CT License (Application) at premises 2147 P Street, N.W., Washington, D.C. A protest was filed by ANC 2B, represented by Chairperson William Stephens, Commissioner Kevin O. Conner, and Commissioner Mike Feldstein, on November 11, 2011. A Group of Three or More Individuals, represented by Attorney Michael Hibey, filed a protest on December 3, 2011. ANC 2B and the Group of Three or More Individuals (collectively "Protestants") came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on December 20, 2011. The Status Hearing was held on February 23, 2011. The parties attended a mediation session on January 12, 2011,

and February 22, 2011, but they did not agree upon a settlement. The Protest Hearing was heard by the Board on June 15, 2011.

In Board Order No. 2011-402, we renewed the license subject to the following conditions:

- (1) the Applicant's hours of entertainment shall be limited to 1:00 a.m., Sunday through Thursday, and limited to 2:00 a.m. on Friday and Saturday;
- (2) the Applicant shall install security cameras outside the establishment and the cameras shall monitor at least 50 feet of sidewalk space in front of the establishment;
- (3) the Applicant shall maintain footage recorded by its security cameras for at least 30 days;
- (4) the Applicant shall hire the [Metropolitan Police Department] MPD Reimbursable Detail for at least four hours anytime the establishment has entertainment or dancing; and
- (5) the MPD Reimbursable Detail shall be present for at least one hour after the establishment closes.

Bouzid, Inc., t/a Marrakesh Palace Pasha Lounge, Board Order No. 2011-402, 6 (D.C.A.B.C.B. Sept. 28, 2011). Subsequently, the Applicant filed a Motion for Stay to Allow Clarification of the Order Prior to Implementation (Motion), dated October 10, 2011. The Protestants submitted a reply on October 14, 2011.

We agree with the Protestants and deny the stay. The Board shall grant a stay "only upon good cause, which shall consist of unusual or exceptional circumstances." D.C. Code § 25-433(d)(3) (Supp. 2011). In determining whether to grant a stay, the Board shall consider "four factors: whether the [licensee's appeal is] likely to succeed on the merits, whether denial of the stay would cause irreparable injury, whether granting the stay would harm other parties, and whether the public interest favors granting a stay." Kufлом v. District of Columbia Bureau of Motor Vehicle Services, 543 A.2d 340, 344 (D.C. 1988). The Applicant has not raised any legal issues with Board Order No. 2011-402, and we do not find any of the circumstances raised by the Applicant to be exceptional or unusual. As such, we deny the stay.

The Applicant has further requested clarification to provisions 1, 2, 4, and 5 of Board Order No. 2011-402. *Motion for Stay to Allow Clarification of the Order Prior to Implementation*, 1. The Applicant would like to have its entertainment hours restored if the establishment commits no entertainment violations in a one-year period. Id. The Applicant also asserts that installing cameras will take time. Id. Further, the Applicant suggests that its new business model will obviate the MPD Reimbursable Detail conditions outlined in our prior Order. Id. The licensee also states in its Motion that it only stopped paying for the MPD Reimbursable Detail, because other licensees that it partnered with stopped doing so as well. Id. at 1-2. Finally, the Applicant asks the Board to clarify

whether it will violate the Order if the MPD Reimbursable Detail servicing the establishment is called away for an emergency, and the establishment continues to operate.

First, we deny the Applicant's request to change provision 1 of Board Order No. 2011-402. The limit on the Applicant's entertainment hours is intended to be permanent, unless otherwise changed by the Board.

Second, we recognize that purchasing and installing camera equipment may take time. As such, we will give the Applicant 90 days from the date of this Order to install the cameras required by Board Order No. 2011-402.

Third, the evidence demonstrated that the Applicant no longer hires the MPD Reimbursable Detail, which violates the Applicant's Voluntary Agreement. Bouزيد, Inc., t/a Marrakesh Palace Pasha Lounge, Board Order No. 2011-402 at 7. We imposed the MPD Reimbursable Detail conditions in Board Order No. 2011-402 on the Applicant to correct this violation of the agreement. Id. However, we only intended to require that the Applicant hire the detail for the time period indicated, and nothing more. As such, we deny the Applicant's request to change provision 4 and will clarify provision 5.

The Board does not support holding further hearings related to this matter. The Board will revisit these conditions the next time the Applicant must renew its license.

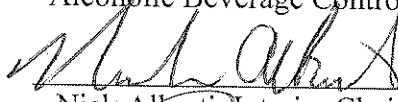
ORDER

Therefore, it is hereby **ORDERED**, on this 19th day of October 2011, that the Motion for Stay to Allow Clarification of the Order Prior to Implementation is **DENIED**. Board Order No. 2011-402 is **CLARIFIED** as follows:

- (1) the establishment has 90 days from the date of this Order to install the cameras mandated in Board Order No. 2011-402;
- (2) in order to comply with provision 5 of Board Order No. 2011-402, the Applicant only needs to hire the MPD Reimbursable Detail for at least one hour after the establishment closes; and
- (3) all other conditions of Board Order No. 2011-402 shall remain in full force and effect.

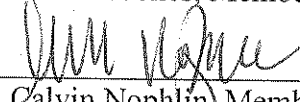
Copies of this Order shall be sent to the Applicant and the Protestants.

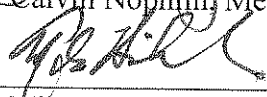
District of Columbia
Alcoholic Beverage Control Board


Nick Alberti, Interim Chairperson


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Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (2008), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, Reeves Center, 2000 14th Street, N.W., 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 (2008) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b) (2004).